

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Subsection (b)(91.1) of Section 7.50
Title 14, California Code of Regulations
Re: Klamath River Sport Fishing Regulations

- I. Date of Initial Statement of Reasons: January 5, 2005
- II. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: February 4, 2005
Location: San Diego
 - (b) Discussion Hearing: Date: March 18, 2005
Location: Oakland
 - (c) Adoption Hearing: Date: May 5, 2005
Location: Sacramento
- III. Description of Regulatory Action:
 - (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Hook Size Change for Anadromous Waters of the Klamath River System: Current regulations in subsection (b)(91.1)(A)2. of Section 7.50 define Special Fishing Methods Restrictions for all anadromous waters of the Klamath River below Iron Gate Dam. These requirements restrict the use of single barbless hooks having a shank longer than 2 inches, or any multiple barbless hook having a gap between the point and shank greater than 3/4 inch. For clarification and in the interest of consistency, the Department is recommending language from Section 2.10, Hook and Weight Restrictions be incorporated in subsection (b)(91.1)(A)2. of Section 7.50. This recommendation would eliminate the 2 inch shank restrictions on single barbless hooks and create a maximum gap for single barbless hooks of 1 inch. The proposed regulation would continue to restrict the use of any multiple hooks with a gap greater than 3/4 inch. This recommendation will make fishing gear restrictions for all anadromous waters of the Klamath River system consistent with statewide restrictions for river and streams excluding the Sacramento-San Joaquin Delta.

Quota Adjustment: Under current regulations in subsection (b)(91.1)(C), the allowable Chinook salmon harvest in the Klamath River system is based on spawning run-size predictions and spawning escapement goals. The harvest and the distribution of the catch are regulated by seasons, daily and weekly bag and possession limits, and area quotas and allocations. Salmonids from the Klamath River basin are managed through a cooperative system of state, federal, and tribal management agencies. Regulations developed through this system are designed to meet natural and hatchery escapement needs for these stocks, while providing equitable harvest opportunities to ocean (sport and commercial) and river (sport and tribal) users. The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of sport and commercial ocean fisheries in the fishery management zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean fishing regulations by the National Marine Fisheries Service. The Department and the Commission adopt regulations for state waters (inside three miles) that are consistent with federal regulations.

The Klamath River system supports a significant Native American subsistence fishery in addition to the other fisheries. The Klamath River fall-run Chinook salmon harvest allocation between tribal and non-tribal fisheries is based on court decisions and agreement of river fisheries representatives (tribal and

non-tribal) under the auspices of the Klamath Fishery Management Council. Tribal fishing regulations are promulgated by the Hoopa and Yurok tribes. Sport fishing regulations are adopted by the Commission. Overall harvest and spawning escapement levels are established and published in the "Amendments to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coast of Washington, Oregon, and California Commencing in 1978 (FMP)," adopted by the PFMC for the U.S. Department of Commerce.

Annual adjustment of the quota is necessary to meet natural and hatchery escapement needs for Klamath River fall-run Chinook salmon stocks, while providing equitable harvest opportunities for ocean (sport and commercial) and river (sport and tribal) users. The total river system recreational harvest of fall-run Chinook salmon is currently regulated by a quota. In 2004, the share, or impact quota, for the Klamath River basin allowable sport catch was 4,700 adult fish (15 percent of the total allowable harvest by non-tribal fisheries, including ocean-commercial, ocean-recreational and recreational-river fisheries).

Projections of the abundance of adult Klamath River fall-run Chinook salmon in the 2005 season are not yet available from the PFMC. Consequently, the Department is suggesting that the Commission consider a range of 0 - 21,000 adult Chinook salmon quota for the river-recreational fishery for notice requirements. The Commission also will consider modifying the share of the allowable catch allocated to the river recreational fishery (which was 15 percent in 2004). Adjustment of this share is included in the recommended 0 - 21,000 range of the quota. As in prior years, the river recreational fishing quota would be split evenly between the fisheries within each sub-quota areas above and below the Highway 96 bridge at Weitchpec.

Closures to Modify Allocations: The Department believes that the regulations should, if possible, allow fishing opportunities for adult fall-run Chinook salmon throughout the entire Klamath River Basin. Currently, the annual recreational impact quota is split evenly, with 50% of the quota allocated to the Klamath River below the Highway 96 bridge at Weitchpec and 50% to the remainder of the Klamath River Basin above the Highway 96 bridge at Weitchpec, including the Trinity River. Proposed regulations define three sub-quota areas above the Highway 96 bridge at Weitchpec. The three quotas ensure equitable harvest of adult fall-run Chinook in the upper Klamath and Trinity rivers.

The 2005 quota to be recommended by the PFMC is not currently known; however, it is expected to be similar to what was established for the 2004 season. All closures for adult Chinook salmon will be designed to maximize and distribute the harvest of adult fall-run Chinook salmon while managing the fishery within the impact quota.

The current quota system requires the Department to monitor angler harvest of adult Chinook in each sub-quota area on a real-time basis. Due to funding and personnel reductions, the Department will be unable to deploy adequate personnel to conduct harvest monitoring in the upper Klamath River above the Highway 96 bridge at

Weitchpec and the Trinity River above Willow Creek for the 2005 season. Instead, the following recommendations are based on data analysis and management experiences from previous years that estimate harvest in the upper reaches of the Klamath River Basin relative to known harvest in the lower Klamath River.

1. Klamath River Main Stem - Allowable Fishing Season from the Highway 96 Bridge at Weitchpec to 3,500 feet below Iron Gate Dam: The Department has reviewed all available Klamath Chinook harvest and run-timing data for the Klamath River from several previous years. Based on this review, the Department has developed a Harvest Predictor Model (HPM) which incorporates creel data from the Klamath River from Iron Gate Dam downstream to the confluence with the Pacific Ocean. The HPM is driven by the positive relationship between the number of fall-run Chinook salmon harvested in the lower Klamath River and the number of fish harvested in the upper river. The HPM will allow the Department to implement fishing closures to ensure that anglers do not exceed established quota targets.

2. Upper Trinity River Main Stem - Allowable Fishing Season from Old Lewiston Bridge to the Highway 299 West Bridge at Cedar Flat: The Department has reviewed all available Trinity

River Chinook harvest and run-timing data for this area. Based on this review, the Department has developed a HPM which incorporates creel data from the Klamath River from Iron Gate Dam downstream to the confluence with the Pacific Ocean and the Trinity River from Lewiston Dam downstream to the confluence with the Klamath River. The HPM is driven by the positive relationship between the number of fall-run Chinook salmon harvested in the lower Klamath and Trinity Rivers and the number of fish harvested in the upper Trinity River. The HPM will allow the Department to implement fishing closures to ensure that anglers do not exceed established quota targets.

3. Lower Trinity River Main Stem - Allowable Fishing Season from Hawkins Bar Bridge (Road to Denny) Downstream to the Mouth of the Trinity: The Department has reviewed all available Trinity River Chinook harvest and run-timing data for this area. Based on this review, the Department has developed a HPM which incorporates creel data from the Klamath River from Iron Gate Dam downstream to the confluence with the Pacific Ocean and the Trinity River from Lewiston Dam downstream to the confluence with the Klamath River. The HPM is driven by the positive relationship between the number of fall-run Chinook salmon harvested in the lower Klamath River and the number of fish harvested in the lower Trinity River. The HPM will allow the Department to implement fishing closures to ensure that anglers do not exceed established quota targets.

Maintain Daily Bag Limit, Weekly Bag Limit and Possession Limit: The 2005 quota to be recommended by the PFMC is not currently known; however, it is expected to be similar to what was established for the 2004 season. Consequently, the Department is not recommending any changes in the daily bag, weekly bag, and possession limits for the 2005 Klamath River sport fishery.

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code.

Reference: Sections 200, 205, 206, 215 and 316.5, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change: None.

(d) Identification of Reports or Documents Supporting Regulation Change: None.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

Dates and Locations of Scheduled Hearings:

Notice Hearing: Date: February 4, 2005
Location: San Diego

Discussion Hearing: Date: March 18, 2005
Location: Oakland

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

Alternative No. 1.

Allowable Fishing Seasons above the Highway 96 bridge at Weitchpec: The Department is reviewing all available data and meeting with the public to develop seasons which will equitably distribute the quota of adult Chinook salmon among all in-river non-tribal user groups throughout the Klamath River basin above the Highway 96 bridge at Weitchpec. The development of seasons will help control Chinook harvest and

ensure that the total impact quota for the Klamath River basin is not exceeded. This alternative can not guarantee that anglers will neither fall short of utilizing the quota or that they will exceed it.

Alternative No. 2.

Generally More Liberal Regulations (Bag Limits, Possession Limits and Fishing Methods) Than Those Proposed: More liberal regulations would be less desirable than those proposed because they could create risk of an intense fishery reaching or exceeding the quota in a very short time. Reaching the quota in a very short time could be damaging to the local economy. Exceeding the allowable harvest could be damaging to the Klamath River basin Chinook salmon resource.

- (b) No Change Alternative: Maintain sub-basin monitoring and quotas. Current regulations divide equally the impact quota above the Highway 96 bridge at Weitchpec and the Trinity River. The area is further divided into three sub quotas; 1) the Highway 96 bridge at Weitchpec to 3,500 feet below Iron Gate Dam (17.0%), 2) the Trinity River from the confluence with the Klamath to Hawkins Bar (16.5%) and 3) the Trinity River from Cedar Flat to Old Lewiston Bridge (16.5%). The current harvest distribution requires the Department to estimate angler harvest of adult Chinook on a real-time basis. Due to budgetary constraints, the Department does not anticipate the ability to conduct real-time monitoring on Klamath River above the Highway 96 bridge at Weitchpec and the Trinity River upstream from the town of Willow Creek.
- (c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact affecting businesses, including the ability of California businesses to compete with businesses in other states. The preservation of Klamath River salmon stocks is necessary for the success of lower and upper Klamath River Basin businesses which provide goods and services related to fishing. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on Private Persons or Businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Other Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Informative Digest/Policy Statement Overview

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